



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,088	12/11/2003	Gregory L. Sundberg	279.646US1	7977

21186 7590 07/24/2006

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

SMITH, TERRI L

ART UNIT	PAPER NUMBER
----------	--------------

3762

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,088	Applicant(s) SUNDBERG, GREGORY L.	
	Examiner Terri L. Smith	Art Unit 3762	

-- *Th MAILING DATE of this communication appears on th cover sh t with th correspond nce addr ss --*
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 21-36 is/are pending in the application.
- 4a) Of the above claim(s) 4, 8-20, 22 and 27-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8-31-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-3, 5-8, 21, and 23-36 in the reply filed on 10 July 2006 is acknowledged. NOTE: Applicant elected the species for Embodiment II represented by Fig. 3, which read on claims 1-3, 5-7, 21, and 23-26. Claims 8 and 27-36 read on the non-elected species of Embodiment III represented by Fig. 4.

2. Claims 4, 8-14, 15-20, 22, and 27-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10 July 2006.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 3, 5, 6, 7, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Cross, Jr. et al., U.S. Patent 5,935,159.

5. Regarding claim 1, Cross, Jr. et al. disclose a tubular lead body (Fig. 1, element 10); at least one electrode disposed along a tubular lead body (18), at least one conductor electrically coupled with at least one electrode (column 2, lines 11-12), at least one conductor including one or more layers of insulation (Fig. 3, elements 112, 114, 116, 118), one or more fillers disposed within a tubular lead body, one or more fillers are disposed adjacent to at least one conductor, but are not coupled with a conductor (Fig. 3, element 102).

Art Unit: 3762

6. Cross, Jr. et al. disclose one or more fillers include compression features associated therewith (Fig. 2, wherein the radially extending portions (180, 182, 184, 186) disrupt the outer perimeter as disclosed in Applicant's specification (page 6, lines 10–12) (claim 2); compression features include compression waves disposed on an inner perimeter of one or more fillers (190, 192, 194, 196) (claim 3); a coiled conductor forming a lumen therein, a coiled conductor disposed within a lead body, and a coil conductor longitudinal axis is offset from a lead body longitudinal axis (Fig. 12, element 418; column 2, lines 64–65) (claim 5); one or more fillers is generally C-shaped (Fig. 2) (claim 6); one or more fillers is formed of silicone (column 3, lines 13 –15) (claim 7); one or more fillers include a first end and a second end (Fig. 2), and at least a first and a second insulated cable conductor are disposed between a first and second ends (110, 112 and 106, 116) (claim 23); an active fixation assembly disposed at a distal end of a tubular body (14) (claim 24); on or more layers of insulation include at least one of PTFE or polyurethane (column 3, lines 25–26) (claim 25).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cross, Jr. et al. as applied to claim 1 above, and further in view of Kuzma, U.S. Patent Application Publication 2003/0236562.

9. Cross, Jr. et al. disclose the essential features of the claimed invention except for a flexibility of one or more fillers is greater than a flexibility of a tubular lead body. However, Kuzma discloses a flexibility of one or more fillers is greater than a flexibility of a tubular lead body (paragraph [0055], lines 14 –15]) to enhance the flexibility of the lead. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Cross, Jr. et al. to include a flexibility of one or more fillers is greater than a flexibility of a tubular lead body, as taught by Kuzma to optimize lead performance.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cross, Jr. et al. as applied to claim 1 above, and further in view of Bush, U.S. Patent 5,755,762.

11. Cross, Jr. et al. do not disclose at least one conductor includes a coiled conductor and at least one cable conductor, an outer surface portion of at least one cable conductor contacting an outer surface portion of a coiled conductor. However, Bush discloses at least one conductor includes a coiled conductor and at least one cable conductor, an outer surface portion of at least one cable conductor contacting an outer surface portion of a coiled conductor (Fig. 2; column 5, lines 42–49 and 53–61) to enhance the flexibility of the lead. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Cross, Jr. et al. to include at least one conductor includes a coiled conductor and at least one cable conductor, an outer surface portion of at least one cable conductor contacting an outer surface portion of a coiled conductor, as taught by Brown to optimize lead performance.

Art Unit: 3762

Conclusion

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Terri L. Smith whose telephone number is 571-272-7146. The Examiner can normally be reached on Monday - Friday, between 7:30 a.m. - 4:00 p.m..

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TLS

July 19, 2006

19 July 2006



GEORGE R. EVANISKO
PRIMARY EXAMINER
7/20/06